



February 27, 2002

Mr. Richard W. Price  
Chief Of Police  
La Marque Police Department  
431 Bayou Road  
La Marque, Texas 77568

OR2002-0939

Dear Mr. Price:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 159498.

The La Marque Police Department (the "department") received a request for dispatch logs for the period of December 13-16, 2001. You state that, initially, the requestor sought dispatch logs from the department for the period December 10-12, 2001, which the department furnished the requestor. You submitted to this office a copy of that request. Next, you state that, on December 17, 2001, the requestor subsequently sought copies of seven separate accident reports and that "the information [the requestor provided] was incorrect and therefore no accident reports could be provided to him." You also provided us a copy of that request. Finally, you inform us that on December 17, 2001, the requestor also made a request for dispatch logs for the period December 13-16, 2001. You seek to withhold these dispatch logs on the basis that the requestor will utilize the information to make further requests for accident reports. We have considered your argument and reviewed the submitted information.

First, with regard to the requestor's December 17, 2001 request for accident reports, we note that the Public Information Act (the "Act") does not require a governmental body to create or prepare new information in responding to a request for information. *See* Attorney General Opinion JM-672; *see also* Open Records Decision Nos. 452 (1986), 467 (1987). However, a governmental body must make a good faith effort to relate a request to information which it holds. *See* Open Records Decision No. 561 at 8 (1990); *see also* Open Records Decision

No. 87 (1975). Therefore, to the extent the department possesses accident reports that are responsive to the request of December 17, 2001, the department must release those to the requestor at this time. See Gov't Code §§ 552.301, .302; *see also* Trans. Code. § 550.065(c)(4) (providing for release of accident reports to person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident).

Next, we will address the request for dispatch logs for the period December 13-16, 2001. You have not provided us with a copy of that request, and therefore, we are unable to determine whether the department had an obligation under the Act to respond to that request. We note that a governmental body is not required to respond to a request that is not made in writing. See Gov't Code § 552.301(a), (c); Open Records Decision Nos. 483 (1987); 304 (1982) (governmental body may require requestor to submit request in writing; there is no requirement to produce information in absence of written request). However, if the December 17, 2001 request for dispatch logs for the period December 13-16, 2001 was made in writing to the department, the department has failed to comply with section 552.301(e)(1)(B) by not submitting a copy of that request to this office. Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal presumption that the information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information. See *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). Compelling reasons exist when the information is made confidential by law or affects the interest of a third party. Open Records Decision No. 630 at 3 (1994).

You argue only that the requested logs should not be released because the requestor will utilize the information to make further requests for accident reports. In response to this argument, we note that the Act prohibits a governmental body from inquiring into a requestor's reasons or motives for requesting information. See Gov't Code § 552.222(b) (stating that a governmental body may not inquire into the purpose for which information will be used). Therefore, the department may not withhold the requested logs on the basis that the information contained therein might be used for a particular purpose. We note, however, that the submitted logs contain information made confidential under section 552.130 of the Government Code. Section 552.130 provides a compelling reason for overcoming the presumption of openness under section 552.302. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

You must withhold the Texas driver's license numbers and license plate numbers in the submitted logs under section 552.130.

To summarize, to the extent they exist, the department must release any accident reports that are responsive to the December 17, 2001 request for accident reports. With regard to the December 17, 2001 request for dispatch logs for the period December 13-16, 2001, the department need not respond to that request if it was not made in writing to the department. If that request was made in writing to the department, however, the department has failed to comply with section 552.301 of the Government Code by not submitting a copy of that request to this office. In that event, the department must release the submitted dispatch logs for December 13-16, 2001 to the requestor, with driver's license numbers and license plate numbers redacted pursuant to section 552.130 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839.

The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/seg

Ref: ID# 159498

Enc. Submitted documents

c: Mr. Doug Friedman  
Prada Publishing, Inc.  
3818 South Western Avenue #176  
Sioux Falls, South Dakota 57105  
(w/o enclosures)